

REMARKS

Claim Rejection - 35 U.S.C. §103

Claims 1-10 and 34-37 have been rejected as being obvious over Campbell '248 in view of Campbell '263. This rejection is respectfully traversed.

First, neither Campbell '248 nor Campbell '263 discloses a *free-floating* lighter than air (LTA) platform, the emphasis being on the term "free-floating." As explained in paragraph [00101] of the specification, and understood by persons of ordinary skill in this art, the term "free-floating" means "without any longitudinal and latitudinal position control." MPEP 2111.01 explains that Applicants are entitled to be their own lexicographer and the explicit definition provided by Applicants for a term will control as stated below from MPEP 2111.01:

An applicant is entitled to be his or her own lexicographer and may rebut the presumption that claim terms are to be given their ordinary and customary meaning by clearly setting forth a definition of the term that is different from its ordinary and customary meaning(s). See *In re Paulsen*, 30 F.3d 1475, 1480, 31 USPQ2d 1671, 1674 (Fed. Cir. 1994) (inventor may define specific terms used to describe invention, but must do so "with reasonable clarity, deliberateness, and precision" and, if done, must "'set out his uncommon definition in some manner within the patent disclosure' so as to give one of ordinary skill in the art notice of the change" in meaning) (quoting *Intellicall, Inc. v. Phonometrics, Inc.*, 952 F.2d 1384, 1387-88, 21 USPQ2d 1383, 1386 (Fed. Cir. 1992)). Where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim. *Toro Co. v. White Consolidated Industries Inc.*, 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999) (meaning of words used in a claim is not construed in a "lexicographic vacuum, but in the context of the specification and drawings").

As Applicants have decided be their own lexicographers and define the term "free-floating" to mean "without any longitudinal and latitudinal position control," this meaning of the term "free floating" will control interpretation of the this term as it is used in the claims of the

present invention. On the other hand, the LTA apparatus of Campbell '248 is *not* "free-floating" as it contains "a propulsion unit" as disclosed in column 5, lines 37-40 of Campbell '248. Also, the LTA apparatus of Campbell '263 is *not* "free-floating" as it contains "control and propulsion system aboard each of the aerial platforms" as disclosed in column 4, lines 17-18, of Campbell '263.

Second, the Examiner has acknowledged that Campbell '248 does not disclose a termination controller. The Examiner has tried to fill this gap by citing Campbell '263. In particular, the Examiner has referred to "a tether release mechanism (not shown)" in Figure 4, citing column 6, line 21, of Campbell. The tether release mechanism of Campbell '263 "permits the envelope 10 to be disengaged from UAV 14 at an appropriate time." See column 6, lines 22-23, of Campbell '263. Campbell '248 states that "the LTA apparatus 1 may be tethered to the Earth using a tether 120. A tether limits the possibility of losing the LTA apparatus." See column 11, lines 48-50, of Campbell '248. In light of this teaching of Campbell '248, there is no reason why persons of ordinary skill in the art would have included a tether release mechanism in the LTA apparatus of Campbell '248.

The Examiner states that it would have been obvious to include the tether release mechanism of Campbell '263 as "a termination controller [in the LTA apparatus of Campbell '248] to terminate the flight of the free floating platform in case of failure or out of range of performing (sic) operating altitude to endure safety." See page 3, lines 10-12, of the Action. Applicants respectfully submit that this argument has two flaws: (1) The LTA apparatus of Campbell '248 is not free-floating; instead, as the LTA apparatus is controlled with a propulsion unit, the LTA apparatus can be steered and controlled into a proper position in case of failure or out of range condition. Thus, there would have been no need for a tether release mechanism in the LTA of Campbell '248. (2) The application of a tether release mechanism in the LTA of Campbell '248 would defeat the objective of Campbell '248 to use a tether as "[a] tether limits the possibility of losing the LTA apparatus." See Campbell '248, column 11, lines 49-50.

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In view of the above amendment, applicant believes the pending application is in condition for allowance.

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Respectfully submitted,

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